

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JDM LONG ISLAND, LLC,

Plaintiff,

-against-

MEMORANDUM & ORDER
10-CV-5564(JS)(AKT)

U.S. BANK NATIONAL ASSOCIATION, as
successor trustee for the registered
holders of LB-UBS Commercial Mortgage
Trust 2006-C7, Commercial Mortgage
Pass-Through Certificates, Series
2006-C7,

Defendant.

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U.S. BANK NATIONAL ASSOCIATION, as
successor trustee for the registered
holders of LB-UBS Commercial Mortgage
Trust 2006-C7, Commercial Mortgage
Pass-Through Certificates, Series
2006-C7,

Counterclaim
Plaintiff,

-against-

TOWN OF HEMPSTEAD INDUSTRIAL
DEVELOPMENT AGENCY; JDM LONG ISLAND,
LLC; JOSEPH MOINIAN; DAVID MOINIAN; THE
PEOPLE OF THE STATE OF NEW YORK, VILLAGE
OF HEMPSTEAD; EAST COAST PETROLEUM, INC.;
BAGNATO REALTY SERVICES, LLC (d/b/a NAI
LONG ISLAND); THE PEOPLE OF THE STATE OF
NEW YORK; "JOHN DOE;" "MARY ROE;" AND
"XYZ CORPORATION" (the last three names
being fictitious but intended to
designate tenants residing at or persons
having an interest in the premises
described in the Complaint herein,

Counterclaim
Defendants,

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APPEARANCES

For U.S. Bank/

Ellis Equities: Christopher Clinton Costello, Esq.
Winston & Strawn LLP
200 Park Avenue
New York, NY 10166-4193

For the Receiver: Abraham B. Krieger, Esq.
Richard J. Eisenberg, Esq.
Meyer, Suozzi, English & Klein, P.C.
990 Stewart Avenue, Suite 300
P.O. Box. 9194
Garden City, NY 11530

SEYBERT, District Judge:

Presently before the Court are: (1) the Court-appointed Receiver Dennis J. Sherry's (the "Receiver") motion for approval of accounting and payment of fees (Docket Entry 124); and (2) the Receiver's motion for approval and payment of attorneys' fees (Docket Entry 135).¹ In support of his application for a commission (Docket Entry 124), the Receiver has provided the Court with ten narrative summaries, each covering three to four months, describing his work during period of the Receivership. (See Docket Entries 124-5 to 124-15.) While the Court appreciates the Receiver's attempt to present his activities in an easily reviewed format, the Court cannot evaluate the Receiver's request for a commission until he provides the "detailed monthly reports of monies received, expenditures paid and related correspondence and

¹ Also pending before the Court is non-party Ambrosino Consultant Corporation's motion for leave to sue the Receiver. (Docket Entry 141.) This motion will be addressed in a separate, future order.

documentation" that he provided to CW Capital Asset Management and Ellis Equities, LLC. (See Receiver's Reply Br., Docket Entry 133, at 1.) Accordingly, the Receiver's motion for approval and payment of fees is DENIED WITHOUT PREJUDICE and may be refiled upon filing of the monthly reports. Although the Receiver's motion for attorneys' fees does not appear to suffer from the same lack of documentation, the Court RESERVES JUDGMENT with respect to such motion because it will be more efficient to resolve both motions at the same time.

CONCLUSION

For the foregoing reasons, the Receiver's motion for approval of accounting and payment of fees (Docket Entry 124) is DENIED WITHOUT PREJUDICE and the Court RESERVES JUDGMENT with respect to the Receiver's motion for approval and payment of attorneys' fees (Docket Entry 135).

SO ORDERED.

/S/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: September 30, 2014
Central Islip, New York